Supreme Court, U.S.
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No. 86-1669

In The

Supreme Court of the United States

October Term, 1986

CARL B. BRANSON,

Appellant,

vs.

CORA NORTHINGTON, PRESCOTT BERRY, ROGER STEELE, ROSCOE EGGER, GTE COMMUNICATION SYSTEMS CORP., MARY A. TICHY, UNITED STATES OF AMERICA,

Appellees.

On Appeal From the United States Court of Appeals For the Ninth Circuit

Brief in Opposition of Appellees GTE Communication Systems and Mary A. Tichy

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JURISDICTION

This was an action to enjoin tax collection by garnishment, with related claims. The Arizona District Court on January 2, 1987 gave judgment for the government and on May 23, 1986 for the employer (GTE and Tichy) who obeyed the garnishment. Appellant appealed the January 2 order to the Circuit as to the government defendants but never appealed the May 23 order giving judgment for GTE and Tichy.

The Ninth Circuit Court of Appeals found that it had no jurisdiction as to GTE and Tichy because there had been no notice of appeal to it. It found the appeal as to the federal defendants frivolous and affirmed on January 7, 1987. The complainant filed a notice of appeal here on February 9, 1987.

This Court has no jurisdiction of this application as an appeal, 28 U.S.C. § 1254(2), but can treat it as a petition for certiorari under 28 U.S.C. § 2103; we shall so treat it here.

REASONS FOR DENYING THE WRIT AS TO THE EMPLOYER PARTIES

The court below found that it had no jurisdiction to consider the appeal to it relating to GTE and Tichy (the employer parties), for lack of a notice of appeal and decided nothing but that jurisdictional question as to these parties. The petition here gives no grounds at all as to why that jurisdictional determination should be further reviewed.

There was, in short, nothing to decide as to these parties in the court below, there is nothing to decide here, and the petition as to these parties should be denied.

Respectfully submitted,

April, 1987

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